

OFFICE OF SPILL PREVENTION AND RESPONSE

NOTICE OF PROPOSED RULEMAKING

Notice is hereby given that the Office of Spill Prevention and Response (OSPR) within the Department of Fish and Game, proposes to amend Sections 790 and 815 through 827.02 in Subdivision 4, Title 14 of the California Code of Regulations (CCR). These sections pertain to oil spill contingency plan requirements.

PUBLIC HEARING

Two public hearings have been scheduled at which any interested party may present statements, orally or in writing, about this proposed regulatory action. The hearings will continue until all testimony is completed, and they will be held as follows:

September 26, 2006	September 28, 2006
Bay Model Visitor's Center	Port of Long Beach
2100 Bridgeway	Administration Building
Sausalito, California	925 Harbor Plaza
10:00 a.m.	6 th Floor Board Room
	Long Beach, California
	10:00 a.m.

SUBMISSION OF WRITTEN COMMENTS

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to OSPR. All written comments must be received by OSPR at this office no later than 5:00 p.m. on September 28, 2006, in order to be considered. Written comments may be submitted by mail, fax, or e-mail, as follows:

Department of Fish and Game
Office of Spill Prevention and Response
P.O. Box 944209
Sacramento, California 94244-2090
Attention: Joy D. Lavin-Jones
Fax: (916) 324-5662
E-mail: jlavini@ospr.dfg.ca.gov

PERMANENT ADOPTION OF REGULATIONS

OSPR may thereafter adopt the proposal substantially as described in this Notice, or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposals - with changes clearly indicated - will be available for 15 days prior to its adoption from the person designated in this Notice as contact person. The text will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Government Code Section 8670.28 grants the Administrator the authority to adopt regulations and guidelines for oil spill contingency plans. These regulations implement, interpret and make specific Government Code Sections 8670.28 through 8670.31.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (Chapter 1248, Statutes of 1990) (Act), created a comprehensive state oil spill program for California's marine waters. Among its many provisions, it required the adoption of regulations requiring oil spill contingency plans and establishing financial responsibility requirements for tank vessels, nontank vessels, and marine facilities.

Following the enactment of the above-cited legislation, and the establishment of the Office of Spill Prevention and Response (OSPR), regulations governing oil spill contingency plans and financial responsibility were adopted. These sections establish clear and consistent guidelines to those parties either affected by their adoption or charged with their enforcement. These regulations were necessary to implement, interpret and make specific Government Code Sections 8670.28 through 8670.31.

These plans are to be used in the response effort that would be necessary in the event of a discharge of oil into the marine waters of the state. The Act authorizes the Administrator to require that all necessary prevention measures are taken, and that sufficient response capability is available. Additionally, the Administrator is required to establish regulations and guidelines that provide for the best achievable protection of the coastal and marine resources, and ensure that all areas of the coast are protected by prevention, response, containment and cleanup equipment and operations.

The proposed amendments to the regulations are needed to implement a new approach in determining the required shoreline protection resources. The sites projected to be impacted are listed in Shoreline Protection Tables (SP Tables) by the hour of impact. These SP Tables show the sites to be protected, the hour by which they should be protected, and the response resources required to provide initial protection. This approach and the resultant SP Tables provide a standard for BAP for shoreline protection.

Amendments of a clarifying or consolidating nature have also been included. Grammatical/technical changes have also been made throughout the subdivision, which have no regulatory effect, and include updates to the authority and reference citations throughout this subchapter to reflect the provisions of AB 715 (Chapter 748, Statutes of 2001) which reorganized the Act.

SMALL BUSINESS IMPACT STATEMENT\

OSPR has determined that the proposed regulations may affect small businesses.

COMPLIANCE WITH GOVERNMENT CODE
SECTIONS 8574.10 AND 8670.55

In accordance with Government Code Section 8574.10, these regulations have been submitted to the Review Subcommittee of the State Interagency Oil Spill Committee for review and comment; and in accordance with Government Code Section 8670.55, these regulations have been submitted to the Oil Spill Technical Advisory Committee for review and comment.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: NONE.

Costs or savings to any state agency: NONE.

Costs or savings to local agencies or school districts which must be reimbursed in accordance with Part 7 (commencing with Section 17500) of Division 4 of the Government Code: NONE.

Other non-discretionary costs or savings imposed upon local agencies: NONE.

Costs or savings in federal funding to the state: NONE.

Cost impacts on representative private persons or businesses:

These amendments give a comparable option to current practices of re-testing bollard pull, and will not result in significant additional costs to private persons or directly affected businesses. The OSPR is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: NONE.

BUSINESS IMPACTS

The OSPR has made an initial determination that the proposed amendments will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

ASSESSMENT OF JOB/BUSINESS CREATION OR ELIMINATION

The OSPR has determined that this regulatory proposal will not have a significant impact on the creation or elimination of jobs in the State of California, and will not result in the elimination of existing businesses nor create or expand businesses in the State of California.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), OSPR must determine that no reasonable alternative that has been considered or that has otherwise been identified and brought to the attention of OSPR would be more effective in carrying out the purpose for which this action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF DOCUMENTS AND OSPR CONTACT PERSON

OSPR has prepared an Initial Statement of Reasons for the proposed regulatory action and has available all the information upon which the proposal is based. Copies of the exact language of the proposed regulations, Initial Statement of Reasons, forms, the rulemaking file, the Final Statement of Reasons (when available) and other information, if any, may be obtained upon request from the:

Department of Fish and Game
Office of Spill Prevention and Response
P.O. Box 944209
Sacramento, California 94244-2090

In addition, the Notice, the exact language of the proposed regulations, and the Initial Statement of Reasons may be found on the World Wide Web at the following address:

www.dfg.ca.gov/ospr/organizational/legal/regulations/regulations.htm

Questions regarding the proposed regulations, requests for documents, or any questions concerning the substance of this regulatory action may be directed to Joy Lavin-Jones ((916) 327-0910), or Chris Klumpp ((916) 322-1195).